

SEALING OF RECORDS - PROCEDURAL OUTLINE

1. Obtain a Fingerprint Card from the Nevada Criminal History Repository.
2. Complete a Fingerprint Card at Las Vegas Metropolitan Police Department Fingerprint Bureau.
3. Submit Fingerprint Card and Cashier's Check/Money Order to Criminal History Records Repository OR the Las Vegas Metropolitan Police Department, as applicable.
4. Obtain case disposition from Municipal Court. **The City Attorney's Office will not stipulate to a Petition and proposed Order to Seal Records which includes ANY:**
 - ☛ **Cases over which the Las Vegas Municipal Court did not, or does not have jurisdiction (Felony and Gross-Misdemeanor offenses as well as cases/events which did not occur in the City of Las Vegas);**
 - ☛ **Convictions which are followed by convictions of crimes - - other than minor traffic offenses OR followed by new and unresolved allegations of a crime - - other than minor traffic offenses.**
 - ☛ **Convictions for which the proper time has not lapsed:**

Normally 2 years after the date of conviction, expiration of a suspended sentence or release from custody, *whichever is later*. For the crimes of Battery which constitutes Domestic Violence and Driving Under (or While Intoxicated) the Influence, the period is 7 years after the date of conviction, expiration of a suspended sentence or release from custody, *whichever is later*.
5. Upon receipt of Criminal History Record, prepare Petition, Stipulation and Order to Seal Records. Case numbers and disposition information regarding each record to be sealed must be included in both the Petition and Order. **The City Attorney's Office will not stipulate to a proposed Order to Seal Records if the paperwork fails to include this information.**
6. Submit an original and at least two copies of the Petition, Stipulation and Order, together with the Criminal History Record and Case Disposition Record (Proceedings) and a \$50.00 filing fee to the front counter of Municipal Court.
7. Municipal Court will forward the Petition, Stipulation and Order to the City Attorney's office.
8. If the City Attorney declines to sign the Stipulation and/or Order due to errors or deficiencies, you will be notified. If you believe your paperwork was properly submitted and is eligible for sealing, you may request a hearing before the Court in writing with notice to the City Attorney's Office (Regional Justice Center, 200 Lewis Street, 2nd Floor, Las Vegas NV 89101).
9. If the City Attorney signs the Stipulation and approves the Order as to form and content, those documents will be returned to the Court for the Judge to execute the Order. Upon completion you, the Petitioner will be notified to pick up the signed paperwork
10. You will need certified copies of the Order to submit to each agency/court indicated in Petition.
11. Court and agencies will seal their records upon receipt of the executed Order. Any/all agencies should notify the Court they have sealed their records.

Reminder: **Only records concerning misdemeanor cases occurring in the City of Las Vegas may be included.** [To seal records concerning crimes outside the jurisdiction of the Las Vegas Municipal Court, contact the Clark County District Attorney, Clark

County Justice Court or the Eighth Judicial District Court.]

SEALING OF RECORDS

The Las Vegas Municipal Court may be petitioned for the sealing of misdemeanor criminal records pursuant to Nevada Revised Statutes (NRS) 179.245 through 179.255. A person may not petition the **LAS VEGAS MUNICIPAL COURT** to seal records relating to felonies, gross misdemeanors or crimes not occurring in the City of Las Vegas. Furthermore, the NRS requires:

1. A current, verified criminal history, including offline events, from the Las Vegas Metropolitan Police Department when submitting a request to seal records pursuant to NRS 179.245 or 179.255.
2. A mandatory 2 year period has expired after the date of conviction, after the expiration of a suspended sentence or after your release from custody, *whichever is later* for most misdemeanor crimes. For the crimes of Battery which constitutes Domestic Violence and Driving Under (or While Intoxicated) the Influence, the mandatory expiration period is 7 years after the date of conviction, expiration of a suspended sentence or release from custody, *whichever is later*.
3. There are no new criminal convictions or pending criminal charges - other than minor traffic offenses.

By statute, an individual may request that a Court seal records of arrest, criminal conviction, acquittal, or dismissal. For clarification purposes, an Order sealing records is not an expungement of the records which allows for the destruction of the records themselves. Rather, an Order sealing records removes the records from general information sources, but does not authorize their destruction. A record sealed pursuant to statute may later be used in certain circumstances. (See NRS 179.295 and 179.301). Additionally, although the entry of the Order by the Court requires that certain criminal justice agencies located outside the State of Nevada to comply with it's direction, these agencies are not bound to follow the Order, and therefore, those records may not be removed.

I. INSTRUCTIONS FOR PREPARATION AND FILING OF STIPULATION, PETITION AND ORDER FOR SEALING OF RECORDS

Before preparing and submitting a request for record sealing, please review the above information and the statutes detailed in Section II of this informational packet to ensure eligibility for sealing. Only cases/arrests over which the Las Vegas Municipal Court has jurisdiction should be included in your Petition, Stipulation and Order. The Las Vegas Municipal Court and the Office of the City Attorney are prohibited by law from giving legal advice to private citizens.

A. Obtain Criminal History Records as Applicable to Sealing of Record after Convictions (NRS 179.245)

Prior to the preparation of a Stipulation, Petition and Order requesting the sealing of records, you **must** request certified copies of the your criminal history record from the State of Nevada the Nevada Criminal History records Repository (Repository). For further information, contact the Repository's web site at www.nvrepository.state.nv.us. By law (Nevada Revised Statutes) **those**

who fail to obtain this criminal history record are not eligible to have their records sealed.

The following must be submitted in order for the Repository to process the request:

1. Complete Form DPS-006 available at the Repository's web site.
2. A fingerprint card from an authorized agency must accompany each request. You may obtain a fingerprint card from the Repository. The applicant will be fingerprinted upon presentation of the card to the Las Vegas Metropolitan Police Department, Fingerprint section located at 5880 Cameron St., Las Vegas, NV 89118, telephone number (702) 828-3271. Other agencies authorized to prepare fingerprint cards are listed at the Repository web site at www.nvrepository.state.nv.us. A fee may be imposed by the fingerprint agency.
3. A cashier's check or money order for \$21.00 (subject to change) made out to the Nevada Department of Public Safety must accompany each request. Personal checks will not be accepted.
4. Mail the completed forms and fees to the following address:

Department of Public Safety
Records and Technology Division
333 West Nye Lane
Carson City, NV 89706
(775) 684-6262

NOTE: The Repository is not capable of providing criminal history information prior to 1988. For criminal history information prior to 1988, contact the Las Vegas Metropolitan Police Department.

B. Obtaining Criminal History Records as Applicable to Sealing Records after Dismissal or Acquittal (NRS 179.255)

A request for criminal history information (including offline entries) should be made to the Las Vegas Metropolitan Police Department. A fee may be charged for this service. For more information contact Metro at (702) 828-3475.

C. Obtain Copies of Case Disposition

If not included in the record of criminal history, you **must** obtain information concerning the case number(s) and/or disposition(s) of the case(s) you wish the Las Vegas Municipal Court to seal. These may only be obtained from the Las Vegas Municipal Court. Call (702) 229-2235 or 229-6575 for case numbers. For case dispositions, you must go to the "front counter" (look for the traffic counter) at the Regional Justice Center, 200 Lewis Avenue, and request copies of the case disposition.

D. Preparation of Court Documents

Three legal documents are required to expeditiously seal an applicant's criminal record. The applicant must prepare a Petition, a proposed Stipulation and a proposed Order. These documents should be submitted to the Las Vegas Municipal Court front counter along with all appropriate attachments within 30 days of receipt of the criminal history information. A sample of each document is attached and also available at the Repository web site at www.nvrepository.state.nv.us. Although samples are attached, you will likely need to customize them for your particular circumstance. [If you are not an attorney, you can delete all references to an attorney representing the Petitioner]. There is a \$50.00 filing fee for filing the Petition. Ensure that the Petition has your contact information (telephone number or mailing address). The Petition and Order should specifically list the following information for each incident for which sealing is requested:

PCN#:

Date of Arrest:

Arresting Agency:

Arresting Agency #:

Charge:

Court Case #:

Final Disposition:

Additionally, it is important that the Order reflect all agencies known to have records pertaining to the matter at issue, and to whom certified copies will be directed (i.e. law enforcement agencies, justice/municipal/district courts, city and or county prosecuting agencies). All information must be provided for consideration of sealing of records. Receipt of partial information will almost assuredly be a cause for denial of the request that the City Attorney's Office to Stipulate and may result in the denial of the Petition by the Court.

It is the responsibility of the Petitioner/Applicant to provide written documentation of the final disposition if the criminal history, as received from the Repository and/or the Las Vegas Metropolitan Police Department if the record does not include the final disposition for the arrest or citation. This documentation may be obtained from the court where the arrest or citation was filed, or the law enforcement agency involved in the incident.

E. Submitting Documents to the Las Vegas Municipal Court

Once the above referenced legal documents are prepared, signed by the applicant and notarized, they should be provided to the Las Vegas Municipal Court front counter located at 200 Lewis Avenue, 1st Floor, Las Vegas, NV 89101:

1. Original and minimum two copies of the Petition.
2. Original and minimum two copies of the Stipulation.
3. Original and as many copies of the Order as necessary for service upon agencies.
4. Criminal History Records received from the Repository and/or Las Vegas Metropolitan Police Department, if the records are dismissals or prior to 1988.
5. Copy of the Judgment(s) of Conviction and appropriate discharge documents from probation if applicable. Judgments of Conviction and discharge documents may be obtained from the Las Vegas Municipal Court, 200 Lewis Avenue, Las Vegas, NV 89101.

6. The Las Vegas Municipal Court, upon payment of the filing fee, will file the Petition and forward a copy along with the remaining documents to the Office of the City Attorney.

F. Approval by the Office of the City Attorney

The City Attorney will review the documents for eligibility for sealing and if approved, will execute the Stipulation and approve the Order as to form and content. The City Attorney will retain a copy of the Petition and Stipulation. The Stipulation, Petition, and Order are then returned to the Las Vegas Municipal Court who will file the Stipulation and submit the Order to the Municipal Court Judge for the Judge's signature.

When notified by the court clerk that the Order has been signed, the Petitioner/Applicant should request from the court clerk as many certified copies of the signed Order as needed for distribution to all law enforcement agencies, prosecuting agencies, and courts involved in the sealing of the applicant's record as specifically named in the Order. The applicant should retain a certified copy of the Order for the applicant's personal records. Except as otherwise ordered by the Court, it is the responsibility of the Petitioner/Applicant to serve the agencies named within the Order with a certified copy of the Order.

G. Denial by the Office of the City Attorney

If the Stipulation and Order have not been signed by the City Attorney, you may then either re-file amended or corrected documents if appropriate or file a written request for a hearing before the Judge. The Petitioner/Applicant is required to notify the City Attorney's Office if a hearing is scheduled. **Common reasons for the City Attorney not signing the Stipulation and proposed Order include:** the failure to obtain and attach a record of criminal history, failure to provide case number(s) or disposition(s), listing cases which occurred outside the jurisdiction of the Las Vegas Municipal Court, not waiting the appropriate time from the date of conviction *or release from custody/suspended sentence (whichever is later)*, or having a new conviction or new crime pending.

If the City Attorney refuses to sign the Stipulation, review and modify your Petition, Stipulation and Order to ensure they comply with NRS 179.245 - 179.255 (as outlined in the accompanying materials) and includes **only records concerning misdemeanor cases occurring in the City of Las Vegas.** If you believe your request was properly submitted, you may file the Petition (with criminal history attached), proposed Order and a request for a hearing.

II. STATUTORY REQUIREMENTS

The following are excerpts from applicable Nevada Revised Statutes. Specifically noted are the requirements set forth in NRS 179.245 and NRS 179.255. Before beginning with these procedures, an individual should review the statutes to be certain that they comply with requirements *and consult with legal counsel as necessary.*

NRS 179.245. Sealing records after conviction: persons eligible; petition; notice; hearing; order

1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259 and 453.3365, a person may petition **the court in which he was convicted** for the sealing of all records relating to a conviction of:

- (a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;
- (b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;
- (c) A category E felony after 7 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;
- (d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;
- (e) A violation of NRS 484.379 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or
- (f) Any other misdemeanor after 2 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 **must**

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

- (1) The Central Repository for Nevada Records of Criminal History; and
- (2) The local law enforcement agency of the city or county in which the conviction was entered;
- (b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and
- (c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

- (a) If the person was convicted in a district court or Justice Court, the prosecuting attorney for the county; or
- (b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, **the court finds that**, in the period prescribed in subsection 1, the **petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations**, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of Identification and Information,

sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

NRS 179.255. Sealing records after dismissal or acquittal: petition; notice; hearing; order

1. If a person has been arrested for alleged criminal conduct and the charges are dismissed or such person is acquitted of the charges, the person may petition:

(a) The court in which the charges were dismissed, at any time after the date the charges were dismissed; or

(b) The court in which the acquittal was entered, at any time after the date of the acquittal,

for the sealing of all records relating to the arrest and the proceedings leading to the dismissal or acquittal.

2. A petition filed pursuant to this section **must**:

(a) Be accompanied by a current, verified record of the criminal history of the petitioner received from the local law enforcement agency of the city or county in which the petitioner appeared in court;

(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the arrest and of the proceedings leading to the dismissal or acquittal and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the charges were dismissed or the acquittal was entered in a district court or Justice Court, the prosecuting attorney for the county; or

(b) If the charges were dismissed or the acquittal was entered in a municipal court, the prosecuting attorney for the city.

The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, **the court finds** that there has been an acquittal or that the charges were dismissed and there is **no evidence that further action will be brought against the person**, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal or dismissal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

NRS 179.265. Rehearings after denial of petition: Time for; number

1. A person whose petition is denied under NRS 179.245 or 179.255 may petition for a rehearing not sooner than 2 years after the denial of the previous petition.
2. No person may petition for more than two rehearings.

NRS 179.275. Order sealing records: Distribution to central repository and persons named in order; compliance

Where the court orders the sealing of a record pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365, a copy of the order must be sent to:

1. The central repository for Nevada records of criminal history; and
2. Each public or private company, agency or official named in the order, and that person shall seal the records in his custody which relate to the matters contained in the order, shall advise the court of his compliance, and shall then seal the order.

NRS 179.285. Order sealing records: Effect; proceedings deemed never to have occurred; restoration of civil rights

Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365:

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if his civil rights previously have not been restored:

NRS 179.295. Reopening of sealed records

1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or similar offense and that there is sufficient evidence reasonably to conclude that he will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 in determining whether to grant a petition pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 for a conviction of another offense.

NRS 179.301. Inspection of sealed records by certain agencies

1. The State Gaming Control Board and the Nevada Gaming Commission and their employees, agents and representatives may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255, if the event or conviction was related to gaming, to determine the suitability or qualifications of any person to hold a state gaming license, manufacturer's, seller's or distributor's license or registration as a gaming employee pursuant to chapter 463 of NRS. Events and convictions, if any, which are the subject of an order sealing records:

(a) May form the basis for recommendation, denial or revocation of those licenses.

(b) Must not form the basis for denial or rejection of a gaming work permit unless the event or conviction relates to the applicant's suitability or qualifications to hold the work permit.

2. A prosecuting attorney may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 if:

(a) The records relate to a violation or alleged violation of NRS 202.575; and

(b) The person who is the subject of the records has been arrested or issued a citation for violating NRS 202.575.

3. The Central Repository for Nevada Records of Criminal History and its employees may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 that constitute information relating to sexual offenses, and may notify employers of the information in accordance with NRS 179A.180 to 179A.240, inclusive.

4. Records which have been sealed pursuant to NRS 179.245 or 179.255 and which are retained in the statewide registry established pursuant to NRS 179B.200 may be inspected pursuant to chapter 179B of NRS by an officer or employee of the Central Repository for Nevada Records of Criminal History or a law enforcement officer in the regular course of his duties.